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**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:22-CR-00028-ABJ
)	
JOSEPH LEE BEECHER,)	
)	
Defendant.)	

UNITED STATES’ RESPONSE TO THE PETITION FOR RETURN OF PROPERTY

The United States of America, through undersigned counsel, hereby responds to Petitioner Mr. Ruston Smith’s petition for return of a Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434, and a New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920 (Doc. 133), states as follows:

1. On March 17, 2022, the Defendant was indicted by a grand jury for the District of Wyoming. (Doc. 19). The Indictment charged the Defendant with Four Counts: Count One: Kidnapping, in violation of 18 U.S.C. § 1201(a)(1); Count Two: Car Jacking, in violation of 18 U.S.C. § 2119(1); Count Three: Use/Carry/Brandish a Firearm During a Crime of Violence, in violation of 18 U.S.C. § 924(c)(1); and Count Four: Transportation of Stolen Firearms, in violation of 18 U.S.C. § 922(j). (*Id.*).

2. The Indictment also contained a Forfeiture Notice that included any firearms and ammunition involved in the commission of the offense charged, including but not limited to:
 - a Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434,
 - a New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920,
 - a SSCY, Model CPX-2, 9mm handgun, serial number, 710363, and
 - matching ammunition.
3. On August 26, 2024, a jury trial commenced. Forfeiture of the Subject Properties, as outlined in the Indictment, were also listed in a Forfeiture Special Verdict Form (Docs. 19, 97).
4. On August 28, 2024, the Jury returned a verdict of guilty on all four counts charged in the Indictment. (Doc. 116). Following the guilty verdicts and before the jury was excused, the Defendant consented to the forfeiture of the Subject Properties and the Court issued an oral preliminary order of forfeiture.
5. On September 3, 2024, pursuant to Fed. R. Crim. P. 32.2(b), 18 U.S.C. § 924(d), and 28 U.S.C. § 2461(c), the Court entered a Preliminary Order of Forfeiture against the Subject Properties. (Docs. 19, 120).
6. Upon the issuance of the Preliminary Order of Forfeiture, the United States published notice of the Order on the government's official Internet website, www.forfeiture.gov, on September 5, 2024, for 30 days. Third-party interests and claims may be filed for the Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM,

- Serial Number L407434, and the New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920, no later than 60 days after the first day of publication, or November 4, 2024, in accordance with Fed. R. Crim. P. Rule 32.2(c) and Supplemental Rule G(5) of the Federal Rules of Civil Procedure.
7. On September 5, 2024, the United States also mailed direct/ancillary notice to Ruston Smith, 1708 Frisco Hills Road, Kissee Mills, MO 65680, in accordance with Fed. R. Crim. P. Rule 32.2(c) and Supplemental Rule G(4) of the Federal Rules of Civil Procedure because he reasonably appeared to be a potential claimant of the Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434, and the New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920. (Doc. 129).
 8. On September 30, 2024, Mr. Smith filed a claim with the court for return of the Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434, and the New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920. (Doc. 133).
 9. Sentencing for Defendant Joseph Lee Beecher is scheduled for December 5, 2024, at which point the preliminary order of forfeiture will become final as to Defendant Beecher.
 10. The United States has no reason to doubt Mr. Smith's assertion of ownership for the Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434, and the New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920. The United States is in receipt of a Craig Colorado Police Department Incident Report dated February 2, 2022, wherein Mr.

Smith reported the theft of two rifles; a black AR-15 style rifle, with a sling and foregrip, and attached reticle scope, and a wooden stock single shot .22-250 caliber rifle. Additionally, on August 5, 2024, the Federal Bureau of Investigation (FBI) interviewed Mr. Smith who identified photographs of the two rifles (seized from the Defendant at the time of his arrest) and listed in his claim as his property. And, Mr. Smith similarly testified at trial in this case to the theft of these two rifles from his Craig, CO home. The FBI confirmed that Mr. Ruston Smith is not prohibited from owning or possessing firearms.

Accordingly, the United States is not requesting discovery pursuant to Fed. R. Crim. P. 32.2(c)(1)(B) to resolve Mr. Smith's petition. If no additional parties assert a claim to the Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434, and the New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920 between now and November 4, 2024, the United States intends to file a motion for final order of forfeiture stipulating to the return of the two rifles to Mr. Smith. The United States intends to file such a motion after the forfeiture of the Bushmaster Firearms International, Model XM-15-E2S, Caliber .223-5.6MM, Serial Number L407434, and the New England Firearms, Model SB2 Ultra, Caliber 22-250 Remington, Serial Number NR217920 becomes final as to Defendant Joseph Lee Beecher. *See* Fed. R. Crim. P. 32.2.(b)(4)(A), (c)(2).

DATED this __th day of October 2024.

Respectfully submitted,

ERIC J. HEIMANN
Acting United States Attorney

By: /s/ Magaret M. Vierbuchen
MARGARET M. VIERBUCHEN
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the __th day of October 2024, a true and correct copy of the foregoing United States Response to the Petition for Return of Property was served upon the following, by U.S. First Class Mail.

Ruston Smith
1708 Frisco Hills Road
Kissee Mills, MO 65680

/s/ Kebin Haller
UNITED STATES ATTORNEY'S OFFICE